

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

March 9, 2004

Chairman S. Schiller called the meeting to order at 4:03 p.m., and roll was taken.

MEMBERS PRESENT: C. Kufta, S. Schiller, R. Hilt, E. Fordham, J. Clingman-Scott, B. Larson

MEMBERS ABSENT: R. Schweifler

STAFF PRESENT: B. Lazor, C. Brubaker-Clarke, H. Griffith

OTHERS PRESENT: R. & C. Holden, 513 Oak; B. Veneklasen, 1900 Beach; J. & K. Burr, 1360 Lakeshore; B. & L. Wood, 1633 Clinton

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of January 13, 2004, be approved was made by J. Clingman-Scott, supported by R. Hilt and unanimously approved.

ELECTION OF OFFICERS

A motion to elect S. Schiller as chairperson was made by C. Kufta, supported by E. Fordham and unanimously approved.

A motion to elect R. Hilt as vice-chairperson was made by B. Larson, supported by J. Clingman-Scott and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2004-4: Variance request to allow a pre-manufactured home with a length that is more than two times its width at 513-523 Oak Avenue, by Ricky and Carolyn Holden. B. Lazor presented the staff report. The subject property is located near the mid block of Oak Avenue between Williams Street and Scott Street. Currently there are two separate lots. The lots would have to be combined before placing a house on both of them. Together the lots measure 132' X 132' which is 17,424 sq. feet. There was a home on the property, but it burnt and was subsequently torn down. The proposed home is 28 feet wide and 64 feet long. The Zoning Ordinance has a set of standards for residential design criteria. The proposed homes length is more than double it width by 8 feet. The applicant indicated in a drawing that there would be an attached 24 X 32-foot garage. The applicant also wrote in on the supplied drawing that the house would be placed on a full basement. The structures within a close proximity of this lot are generally 1-½ stories in height. Section 2319 of the Zoning Ordinance [Residential Design

Criteria] has numerous requirements for new homes before they are placed in the City. The requirements were provided to the commission members. Staff has done a preliminary review of the design criteria and could only review a portion of them with the plans as submitted. Staff has comments in regards to certain criteria (staff comments in italics): 7) A structure with a front elevation view of over 40 linear feet shall have a design offset including but not limited to; bay windows, covered porches, or structural offsets from the principal plane of the building. *The proposed home does not show any of these requirements except for steps from the front door. A variance may be required to meet this guideline.* 8) Any single-story, residential structure shall not be more than two (2) times longer than its width (exclusive of an attached garage). *This is what is before the ZBA today.* 17) The subject dwelling unit shall be aesthetically compatible in design and appearance with other dwellings within 600 feet. The review shall include but not necessarily be limited to: roof pitch, scale, size, mass, minimum transparency, orientation to the street, and overhangs. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as (but not limited to) solar energy, view, or unique land contour. *The average width of the homes within 600 feet of this proposed dwelling are less than 30 feet. This home with attached garage is proposed to be approximately 96 feet in length. If the ZBA is inclined to grant the variance from the width to length requirement, staff could waive this requirement recognizing that there has not been much new home construction in this area of the city.* Staff received a phone call from the Payne household, 492 Oak, stating that they are excited about the home going in the neighborhood.

E. Fordham asked about the plans. B. Lazor stated that building plans are submitted to the Inspections Department and routed to the other departments for approval. This was noticed immediately due to the length and width ratio. E. Fordham stated that the plans that were supplied to the commission members are to scale and the roof pitch wasn't met. J. Clingman-Scott asked if the front elevation has the garage shown. B. Lazor stated that it didn't. E. Fordham stated that the garage is on the second page of the plans. C. Holden stated that the roof pitch would be 7/12. The snowload would be 40 lb. There would also be a covered porch, which would be there responsibility to install. The garage will be 24 ft. by 24 ft. The garage layout in the plans was an estimated size. They will have a 2-stall garage. They would also have a baywindow installed. B. Larson asked if the home was already ordered. C. Holden stated that they placed a deposit on it, but the home can still have changes done to it. Should they not continue with ordering the home, they would lose their deposit. C. Kufta asked what the size of the footplan was from the home that was originally there. R. Holden wasn't sure what it was. C. Kufta asked the applicant how this was caused by the ordinance. C. Holden stated that they need a 1-story home. Her husband can't go up and down the steps. They used to have a 2-story home. There were other homes that they had looked at that were larger than this one. E. Fordham stated that he used to live in this area and the footings of the homes weren't very good. B. Lazor asked if the deposit could be transferred to a home of a different size. C. Holden stated that she didn't know if it could. R. Hilt stated that he would prefer to see the final plans. He would like to see exactly what they would be approving. He was concerned that there may be a need for other changes down the road, which could mean more variances are needed. C. Holden stated that they would have the final plans once this request is approved. B. Larson suggested tabling the matter until there are actual plans. R. Hilt stated that he has had to deal with manufactured homes before and plans had been provided. S. Schiller asked the applicant if they would prefer to have this tabled, or continue with it as it is. From the sounds of the discussion,

this may be denied. The commission members would prefer to work with the applicant. J. Clingman-Scott suggested having elevations, breaks in the façade, and having the plans drawn to scale. B. Larson stated that he would like to see staff work with the applicant in order to get the plans that are needed. C. Kufta suggested having the builder or sales representative come to the meeting to show that they have exhausted all other options.

A motion to table Hearing; Cases 2004-04 & 05 for 30 days, was made by J. Clingman-Scott, supported by B. Larson and unanimously approved.

Hearing, Case 2004-6: Variance request to permit the installation of an 8 foot fence surrounding the Water Filtration plant complex and to allow it to be topped with barbed wire, by Bob Veneklasen (City of Muskegon). B. Lazor presented the staff report. The subject property is located south of Pere Marquette Park. The Water Filtration Complex is situated on a large odd shaped lot that sits above Beach Street and Lake Michigan. There are residential uses behind the water plant. The water plant supplies water to the City of Muskegon, Muskegon Township, North Muskegon, Roosevelt Park and the County Northside system. Currently the plant is surrounded by a 6 foot fence with topped with 3 strands of barbed wire oriented inward. The request is to increase the visible portion of the fence to 8 feet and top it with barbed wire tipped outwards. The fence is also proposed to be reinforced with horizontal lengths of cable. Also, the plant wishes to replace some of the existing fence and barbed wire. The plant is relatively secluded on a plateau and needs to be secured from potential threats. The Applicant has identified a report from the Office of Homeland Security and the United States Environmental Protection Agency which recommends the protective measures being proposed for the fencing. Staff received the following comments: Ric Scott, the Leisure Services Director, sent an e-mail saying that he did not have any problem with an 8 foot fence going up around the filtration plant. Mary McDonald, 3389 Thompson, indicated through email that she did not care about the fence if we did not. There was also a phone call from Jim Zahnisen, 3421 Lakeshore, stating that he doesn't mind as long as the fence doesn't look too bad, otherwise he is okay with the request.

S. Schiller asked if cameras were being used. B. Veneklasen stated that they aren't at this time. Hopefully they will have some in the future. R. Hilt asked what the procedure would be if someone got tangled in the barbed wire. He had brought up the fact that it happened at a car lot on Getty where the people were trying to steal batteries. B. Veneklasen stated that they haven't had this type of situation happen. He stated that the Police and Fire departments would be involved as well as medical attention for the person caught in the barbed wire. E. Fordham asked if someone were to gain access, would they be able to poison the water supply. B. Veneklasen stated that he wasn't sure, but it could be possible. C. Kufta asked who would be paying for the fence. B. Veneklasen stated that it would come out of the filtration fund. J. Clingman-Scott asked if the fence was proposed to be placed elsewhere, or in the same place that the existing fence is. B. Veneklasen stated that this fence would be in the same place and it would be done a section at a time. S. Schiller asked if the fence would still be see-thru. B. Veneklasen stated that it would still be chainlink. E. Fordham asked if they would still have the gates for emergency access. B. Veneklasen stated that they would. Currently there is a system that you would push a button and someone would talk to you before you are allowed in.

A motion to close the public hearing was made by R. Hilt, supported by B. Larson and

unanimously approved.

R. Hilt asked if the proposed condition that this would need to be completed within one year should be changed since the applicant is proposing to do this in phases. B. Veneklasen stated that this would be done in phases, as the budget would allow. He isn't sure how long it would take. S. Schiller suggested changing it to 2 years.

The following findings of fact were offered: 1) There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district because the Water Filtration Plant is uniquely situated in the midst of a recreational area and four nearby, but not adjacent, residential properties. The Plant produces portable water for the City of Muskegon, Roosevelt Park, North Muskegon, Muskegon Township, and a portion of Muskegon County. It serves a population in excess of 60,000 persons. 2) The dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity because due to the nature of the Water Filtration Plant there is no commonality between it and the neighboring properties from which to draw a conclusion to this. The events of 9/11/2001 have resulted in increased security at water treatment facilities making them share less similarity with adjacent properties. 3) Authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest because the Plant grounds are currently surrounded by a 6' chainlink fence topped with three strands of barbed wire oriented inward. This request is twofold; one to replace the existing fence as part of the Water Filtration Plant improvements project resultant of the City's plan review – the second is to increase the height to 8' with 2' buried and the barbed wire oriented outward. Additionally, the fence will be reinforced with horizontal lengths of cable. The intent of the second issue is to address the perimeter of the entire Water Filtration Plant property by a phased replacement plan over the course of a few years. 4) The alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner because the Office of Homeland Security and the United States Environmental Protection Agency mandated the City conduct a Vulnerability Assessment of the drinking water supply to evaluate present security measures and to make recommendations to compliment and enhance the security of the water supply. The VA study makes recommendation that an 8' chainlink fence with barbed wire is appropriate. Further, the study recommends that there be 2' of fence buried to deter undermining for entry to the plant grounds. 5) The alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner because this request is to enhance the security of the drinking water supply of the City and its wholesale customers. There is no consideration of financial gain or reduction of expense. 6) The requested variance is the minimum action required to eliminate the difficulty because the security measures are based on recommendations of the Vulnerability Assessment. The study follows the Sandia methodology for site security. The major components of the method are: Deter, Delay, Detect, and Respond. The request to alter the perimeter fence height and the addition of barbed wire are consistent with the "Deter and Delay" components of the Sandia method and the Vulnerability Assessment.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and

that the variance to replace existing fencing and barbed wire and to allow and the installation of an 8 foot cable reinforced fence topped with barbed wire tipped outwards at 1900 Beach Street (Water Filtration Plant), be approved, based on the findings of fact, with the following conditions: 1) The variance is recorded with the deed to keep record of it in the future. 2) That the addition to the property must be complete within two years or the variance is void, was made by J. Clingman-Scott, supported by B. Larson and unanimously approved.

Hearing, Case 2004-7: Variance request to allow a circle driveway to be placed in the front of the home at 1364 Lakeshore Drive, by Ben and Linda Wood. B. Lazor presented the staff report. The subject property is located near the intersection of Lakeshore Drive and McGraft Street. The property has 50 feet of frontage with an average depth of 235 feet overlooking the lake. The property contains a one-stall garage and a narrow driveway that leads up to it. The garage is situated towards the rear of the principle structure. The front yard contains a large tree that may need to be removed in order to fit a driveway in. The drawing supplied by the applicant indicates a second curb cut on the property in order to create the circle driveway. The applicant has supplied pictures showing a circle driveway at 1400 Lakeshore, which is near the subject property. The applicant is seeking a variance from the zoning ordinance that prohibits parking cars in front of the front building line. Staff has received the following comments: Don Maschino, 1312 Palmer, sent in an email stating that he has no problem with the circle drive going in at 1364 lakeshore Dr. and he wishes the applicants the best of luck with their construction project. Susan Tindall, 1613 McGraft, phoned stating that she wouldn't want to see a circle drive. There is already very little greenspace.

J. Clingman-Scott asked where the curbcut for the driveway was. S. Schiller stated that it was on the right side. B. Lazor showed here where it was according to the drawing. L. Wood stated that currently they would have to bank cars in the driveway and it is difficult to back out onto Lakeshore Drive. B. Larson asked how often a car would be parked in the circular portion of the driveway. B. Wood stated that they are usually gone during the day and at night they would bank the cars in the driveway. J. Clingman-Scott asked how deep the yard was from the home to the sidewalk. B. Wood stated that he wasn't sure. E. Fordham asked if they were prepared to take the maple tree down in the front yard. B. and L. Wood stated that they were. E. Fordham felt that this would be safer to have this type of a driveway in this area. There are a lot of cars parked on the street causing visual problems for people baking out onto Lakeshore Dr. C. Kufta asked if they were thinking about purchasing the home. B. Wood stated that they were. There are a few problems with the house, but the parking was the biggest problem. C. Kufta asked if they had looked at doing a quarter of a circle drive. This way there wouldn't be a full circle; just enough to back up onto it and pull out. B. Wood felt that it would be more aesthetic for it to be a loop. K. Burr stated that there is 23 ft. between the sidewalk and the front of the home. J. Burr supplied a drawing of the property to scale as well as a 10 ft. wide circular driveway so the commission members could see what it would look like if this request were approved. J. Burr stated that the maple tree has a 5-ft. diameter. K. Burr is opposed to the request. This is a single family home and doesn't feel there would be a lot of vehicles to warrant the need for the circular drive. They could fit 4 to 5 vehicles in the current driveway including the 1 that would fit in the garage. The circular driveway would take away from the neighborhood's appeal. J. Burr asked if the variance request had to come from the property owner. S. Schiller stated that it didn't. J. Burr was concerned that by approving this, it would be setting a precedent. B. Lazor stated that

the owner signed the application.

A motion to close the public hearing was made by J. Clingman-Scott, supported by B. Larson and unanimously approved.

J. Clingman-Scott stated that she has the same type of reaction. She is concerned about turning the front lawn into cement. She also fears about setting a precedent and disturbing the tree line. E. Fordham asked about T parking. B. Lazor stated that it would still be the same as front yard parking. E. Fordham asked if the variance would stay with the property. S. Schiller stated that it would. B. Larson went over the other properties in this area that have the circular drives. He doesn't see a problem with this one. C. Kufta stated that he has a problem with this request. This is a charming neighborhood and the homes are closer to the road. He would like to keep the nature of the neighborhood. He felt that no hardship was proven. Although it may not be convenient to use the existing driveway, the property could still be used. R. Hilt stated that he has a problem with the request. The applicant hasn't purchased the home yet and he was concerned that something could happen and they don't purchase the home. If the variance is approved it would stay with the property and not the applicant. He would also hate to see the tree come done. B. Larson stated that the comments should address the findings of fact. J. Clingman-Scott stated that aesthetic values are trees, grass, street walls, and this would adversely affect the neighborhood.

J. Clingman-Scott stated that all the findings of fact weren't proven. Those that weren't proven are as follows: 2) The dimensional variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity because they already have a driveway that they may use. 3) The authorizing of such dimensional variance will be of substantial detriment to adjacent property and will materially impair the purposes of this chapter or the public interest because it would detract from the neighborhood. 4) The alleged difficulty is not caused by the Ordinance and has been created by any person presently having an interest in the property or by any previous owner because they already have a driveway.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to allow a circle driveway to be placed in front of the front building line at 1364 Lakeshore Drive (front yard parking), be denied, based on the findings of fact, was made by J. Clingman-Scott, supported by C. Kufta and approved with B. Larson voting nay.

OTHER

Van's Car Wash. B. Larson promised to have this information for the next meeting. The information isn't complete yet.

There being no further business, the meeting was adjourned at 5:02 p.m.

hmg
3/9/04